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| 10/002,522      | 11/13/2001  | Gerald Lebizay       | 42390P12364         | 4266             |

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EXAMINER

HARRELL, ROBERT B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2142

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/002,522

Applicant(s)

LEBIZAY ET AL.

Examiner

Robert B. Harrell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 87-106 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 87-106 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: see attached Office Action.

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1. Claims 87-106 are presented for examination.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The Title is more directed to *A System And Method For Aggregating Channel Segment IDs Into A First Section And Data Segments Into A Second Section*.
3. The applicant should use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks <sup>TM</sup>, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each claim). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

**A person shall be entitled to a patent unless -**

**(b) the invention was patented or described in a printed publication in this or foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.**

5. Claims 87-106 are rejected under 35 U.S.C. 102 (b) as being anticipated by Duault et al. (United States Patent: 5,930,265).
6. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference is cited* and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions.
7. With respect to the applicant's Eighty Seventh claim and figure 5 of Duault, as a starting guide, Duault taught/anticipated a method comprising:
  - a) assigning a plurality of segment IDs ((CID1)(UDL1) to (CIDn)(UDLn)) to a plurality of channels associated with a plurality of digitized segments (SSCS) of data (e.g., see col. 6 (line 343-et seq.));

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- b) determining a boundary number (e.g., see col. 6 (line 38-39)) that represents a number of segment IDs (i.e., 4) to be aggregated into a first section (e.g., see figure 5 (SSCS aggregated to the left) and a number of corresponding digitized segments of data to be aggregated into a second section (e.g., see figure 5 (aggregated to the right of the left SSCS aggregation));
- c) aggregating the determined boundary number of segment IDs into the first section, wherein the segment IDs share a destination node (e.g., see figure 5); and
- d) aggregating the determined boundary number of digitized segments of data into the second section, wherein each aggregated digitized segment of data in the second section is associated with a segment ID in the first section (e.g., see figure 5).

8. Figure 13 also shows the digitized data segments aggregated into one section while the segment identification associated with the channels and the digitized data segments were aggregated into another section as also covered in col. 3 (line 14) and col. 5 (lines 11 and 23).

9. Per claim 88, aggregating the determined boundary number of segment IDs into the first section comprises adding an inactive ID if the number of segment IDs that share a destination node are less than the boundary number was covered in 6 (line 46-et seq.) and/or padding per col. 2 (line 55-et seq.).

10. Per claim 89, 8 bits per byte was four bytes in the 32 bits of col. 6 (lines 39-40).

11. Per claim 90, figure 5 and figure 13 were each in a set of data packets.

12. Per claims 91-99, see Abstract which covered ATM, as used in LANS per col. 1 (line 41), normally constructed from Ethernet that implemented MAC addresses which carried any type of telecommunication data (e.g., see col. 2 (lines 38 and 44), such as FAX and/or voice (e.g., see col. 4 (lines 50-51), with pulse code modulation over time divisioned multiplexed communication of figure 13 that carried the payload (e.g., see figure 5 and figure 13), of any selected length such as two or more bytes, in real time.

13. Per claims 100-106, these claims do not teach or defined above the correspondingly rejected claims given above, and are thus rejected for the same reasons given above.

**14. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this office action:**

**a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.**

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15. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103, examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligations under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. 102 (f) or (g) prior art under 35 U.S.C. 103.

16. Claims 87-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duault et al. (United States Patent: 5,930,265).

17. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature as the whole of the reference is cited and relied upon in this action.

18. That which was anticipated was obvious.

19. Variation in lengths and sizes of claimed elements and/or location of aggregated information within a data packet, be it to the left or right first or last header or trailer, do not appear to be linearly dependent on critical system functions and thus obvious design choices. That is, it would have been obvious to have increased/decreased lengths and/or sizes of data packets and to aggregate digitized data segments after segment identifiers when reading the bits from left to right in figure 5 and/or figure 13.

20. All of the applicant's arguments, of record and fully considered, related to now defunct prior rejections are moot in view of the new grounds of rejections provided above and herein.

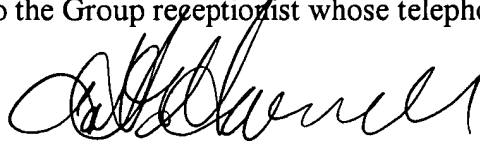
21. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Friday from 5:30 am to 2:00 pm and on weekends from 6:00 am to 12 noon Eastern Standard Time.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew T. Caldwell, can be reached on (571) 272-3868. The fax phone number for all papers is (703) 872-9306.

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24. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

A handwritten signature in black ink, appearing to read "R. B. Harrell", is positioned above the printed name.

ROBERT B. HARRELL  
PRIMARY EXAMINER  
GROUP 2142